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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 28 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Implementation of Section 4(g)
of the Cable Television
Consumer Protection and
Competition Act of 1992

MM Docket No. 93-8

Reply Comments of the Honorable Edolphus Towns

The Honorable Edolphus Towns ("Mr. Towns") submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking in MM Docket No 93-8, 8 FCC Rcd 660 (1993) ("the Notice"). In making its public interest determination under Section 4(g) of the Cable Television Consumer Protection and Competition Act of 1992, ("the Act"), Mr. Towns urges the Commission to be aware that its action could have a critical impact on minority ownership of commercial television stations. This is particularly important in light of the Supreme Court's affirming of Commission and Congressional policies to stimulate minority ownership and of the April 8, 1993 decision of a three judge panel that upheld the constitutionality of the Must Carry provisions of the Act.

Interest of Mr. Towns

The Honorable Edolphus Towns is a Member of the United States House of Representatives. He has represented the people of the 11th and 10th Congressional Districts of the State of New York since 1983. As a member and former Chairman of the Congressional Black Caucus, Mr. Towns is deeply involved with the legislative issues which affect traditionally underrepresented groups. The societal and legal trends which affect these groups nationally will affect the opportunities available to the predominantly Black and Hispanic constituency which he represents. Mr. Towns has been responsible for legislation related to bilingual education, limited resource farmers, 1890 Land Grant Institutions, and animal rights. He is currently a member of two committees which have legislative and oversight jurisdiction over the Commission: the Committee on Energy and Commerce and the Committee on Government Operations.

Section 4(g) is Constitutionally Suspect

The General Must Carry Scheme. With the exception of stations with predominantly shopping formats, whose carriage rights initially are governed by Section 4(g) of the Act, Section

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4 of the Act requires cable television systems to carry the signals of certain full power commercial television stations.

To be eligible for such mandatory carriage or Must Carry on the limited number of channels that the Act directs cable systems to reserve for local full power television stations, the stations must meet certain content neutral criteria relating to signal strength and the like. These criteria are spelled out in Section 4. The Congressional purpose in adopting Must Carry was to preserve localism in television broadcasting. Congress recognized that local stations are a vital source of non-entertainment programming directed at the needs and interests of their viewers. Section 2 (9), (10), and (11) of the Act; see generally, H.R. Conf. Rep. No. 862, 102nd Cong., 2nd Sess. 66-75 (1992).

General Must Carry Scheme Held Constitutional. Various cable companies and programmers challenged the constitutionality of Section 4. However, a three judge federal court on April 8, 1993 rejected these claims. In Turner Broadcasting System, Inc. v. U.S., Civil Action No. 92-2247 (D. D.C., April 8, 1993), Slip op., the court held that Section 4 is constitutional and does not raise First Amendment considerations. The court found that Section 4 and its noncommercial carriage companion, Section 5, do "not compel the carriage of any particular message nor do they impose any burden on [cable] operators or programmers on the basis of the message they or broadcasters propose to transmit." Rather, the court concluded that the provisions are "essentially economic regulation designed to create competitive balance in the video industry as a whole, and to redress the effects of cable operators' anti-competitive practices." On that basis, the court further concluded that the Must Carry provisions "are, in intent as well as form, unrelated . . . to the content of any

history of Section 4(g) makes clear that the provision is content specific. Compare the remarks of Senator Breaux, the chief sponsor of Section 4(g) (Executive Session: Mark up of S. 12 Before the Senate Committee on Commerce, Science and Transportation, 102d Cong., 1st Sess. 20-22 (May 14, 1991)) with the remarks of Senators Reid, Graham, Pressler and Danforth (138 Cong. Rec. S572, S575 and S579 (daily ed. January 29, 1992) as well as with an August 5, 1992 letter from 14 Senators to Senator Hollings, Chairman of the Commerce Committee. This legislative history was quoted at pages 8-9 of the Statement of Rodney A. Smolla in Support of the Comments of Silver King Communications, Inc. which was filed with the Commission in this proceeding. Mr. Smolla is the Arthur B. Hanson Professor of Law and Director of the Bill of Rights Institute at the College of William and Mary.

Constitutional Tests. The distinction between a content neutral Section 4 and a content specific Section 4(g) is significant. In evaluating whether the general content neutral Must Carry provisions of Section 4 passes First Amendment muster, the Turner Broadcasting System, Inc. court employed the significant government interest test of United States v. O'Brien, 391 U.S. 367 (1968), as refined in Ward v. Rock Against Racism, 491 U.S. 781, 799 (1989).

The court did not have before it a challenge to Section 4(g). If it had, Mr. Towns believes that it would have applied the tougher strict scrutiny test of cases such as Consolidated Edison Co. v. Public Serv. Comm'n., 447 U.S. 530, 537 (1980) and Boos v. Barry, 485 U.S. 312, 319 (1988). See Smolla Statement at 24. The strict scrutiny test is the standard for evaluating Section 4(g) because Section 4(g) favors cable operators and programmers over local television stations with shopping formats on the basis of the content of the stations' programming. There are no congressional findings in Section 2 of the Act to justify that disparate Must Carry treatment for local full power stations that have shopping formats and those that do not. Thus, Mr. Towns does not believe that Section 4(g) is Constitutionally permissible. Turner Broadcasting System, Inc., Slip op. at 19-22, 41; Smolla Statement at 7-13.

In implementing Section 4(g), the Commission must act consistently with the Constitution. Because of the questionable constitutionality of Section 4(g), Mr. Towns urges the Commission to carefully evaluate the material submitted by the shopping formatted stations that detail their non-entertainment programming records. Mr. Towns understands that they have submitted considerable detail that documents their service to their communities.

Impact on Minority Owned Stations

Mr. Towns notes that according to a study released by the National Telecommunications and Information Administration ("the NTIA") only 19 or 1.7% of the Nation's 1142 commercial television stations are Black owned. In 1971, no commercial television stations were owned by Blacks. In the context of Section 4(g), it is significant that seven of the 19 stations are affiliates of the Home Shopping Network, Inc. These entrepreneurs have stated in their comments to the Commission in this proceeding and earlier in testimony before Congress that HSN financing has enabled them to construct or acquire their stations. See the statements of various minority-owned HSN affiliates presented to the Senate Commerce, Science and Transportation Subcommittee on Communications on June 20, 1991. Copies of these statements, which were incorporated in the written testimony of Robert T. Sutton, President of Home Shopping Network, Inc., that was submitted to the Subcommittee. Those statements are attached to these Reply Comments.

The progress in Black and other minority group broadcast station ownership reflected in the NTIA report is the result of policies adopted by both the Commission and Congress. Mr. Towns strongly supports these initiatives which the Supreme Court affirmed in Metro Broadcasting, Inc. v. FCC, 497 U.S. 547 (1990). He supports them because they have helped minorities overcome years of past discrimination and, as the Supreme Court noted in Metro Broadcasting, Inc., because diversity of ownership of stations promotes a diversity of programming. "[I]t is upon ownership that public policy places primary reliance with respect to diversification of content" 497 U. S. at 570-71 (citations omitted). See also the April 6, 1992 letter from the Hon. Edolphus Towns to the Hon. Carlos Moorhead: "I would urge you to oppose any restrictive amendment which would deny HSN stations carriage because of the dire consequences it would have for minority-owned stations."

The minority HSN affiliates have maintained before Congress and in their filings in this proceeding that their HSN affiliation has enabled them to produce and air a significant

Dingell. These letters are quoted at pages 42-43 of the Comments of Silver King Communications, Inc. that were filed in this proceeding.

The Commission Should Conclude This Proceeding By June 2, 1993

The Act requires that the Commission's general Must Carry rules are to become effective 180 days from enactment, which is June 2, 1993. On the other hand, Section 4(g) directs the Commission to conclude this proceeding within 270 days of enactment or July 3, 1993. Nothing in the Act, however, precludes the Commission completing the Section 4(g) proceeding within the 180 day window.

A September 17, 1992 colloquy between Representatives Norman Lent and Edward Markey demonstrates that the Commission has the authority to accelerate this proceeding.

Lent: I would like to ask about the effect of the 270-day deadline It is my understanding that [Section 4(g)] means that the FCC can decide this issue, assuming it meets the public comment requirement, whenever it feels it has completed its analysis as long as it does not take more than 270 days for the process.

Markey: Mr. Speaker, I have examined the statement of the gentleman from New York and the gentleman's . . . interpretations are correct.

138 Cong. Rec. H. 8683 (September 17, 1992).

Mr. Towns urges the Commission to complete this proceeding with great dispatch. On June 2, 1993, all non-shopping formatted full power commercial television station will know their Must Carry status and cable systems will be required, if necessary, to rearrange their channel usage to accommodate the stations as of that date. All of the Commission's carriage decisions should be effective on the same date. If the shopping stations' Must Carry status is not determined for an additional 30 days, that delay in and of itself may deny them mandatory carriage. On July 3, 1993, the Commission may find that the stations are operating in the public interest, but the limited number of Must Carry channels will already have been allocated. Furthermore, even if Must Carry channels are available, the 30 day delay and subsequent carriage of the shopping format stations would be confusing to viewers and an unnecessary further realignment expense for the cable systems. Therefore, the

Commission should use its best efforts to complete the Section 4(g) proceeding on or before June 2 to avoid a situation in which justice delayed is justice denied.

Request for Leave to Submit Late Filed Reply Comments

Mr. Towne requests leave to file these Reply Comments

1. John Oxendine
President
Blackstar Communications, Inc.
2. Steven Roberts
President
Roberts Broadcasting Company
3. Joseph Stroud
President
Jovon Broadcasting Corporation
4. Theodore White
President
Urban Broadcasting Corporation
5. Carmen Briggs
President
Ponce-Nicasio Broadcasting, Ltd.
6. Theresa Romero
President
Golden Hills Broadcasting Corporation



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BEFORE THE
COMMERCE, SCIENCE AND TRANSPORTATION
SUBCOMMITTEE ON COMMUNICATIONS
UNITED STATES SENATE
JUNE 20, 1991

STATEMENT OF
JOHN E. OXENDINE
PRESIDENT AND CONTROLLING SHAREHOLDER
BLACKSTAR COMMUNICATIONS, INC.
WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee:

My name is John E. Oxendine. I am President and controlling shareholder of Blackstar Communications, Inc. ("Blackstar"), which owns UHF television stations WBSF-TV, Melbourne, Florida, WBSX-TV, Ann Arbor, Michigan, and KBSP-TV, Salem, Oregon. Blackstar's television station in Melbourne serves the Orlando-Melbourne-Daytona television market, its Salem station serves the Portland/Salem market, and its Ann Arbor station serves the greater Detroit area. Blackstar's three stations are affiliated with the Home Shopping Network ("HSN"). As a group-owner broadcaster and a businessman/entrepreneur, I am submitting this statement in opposition to the proposed amendment to S.12 that would remove "must-carry" eligibility for television stations which have predominantly a shopping format.

For the past twenty years I have worked in various capacities in the world of finance, first with a nationally known bank, later with the FSLIC, and since 1981, as president of a nonprofit venture capital company dedicated to assisting minority owned and controlled companies in acquiring radio and television stations. In this latter capacity, in addition to falling in love with broadcasting, I have become acutely aware of the difficulty which minority owned and controlled companies have in acquiring financing. I have certainly struggled to assist a large number of black and Hispanic entrepreneurs in trying to

obtain financing to enable them to become owners in the broadcasting industry. It was also in this capacity that I became familiar with Home Shopping Network ("HSN") and became friendly with its senior management. Finding them attuned philosophically to the mission of my nonprofit company, I was able to obtain from HSN substantial financial support in the form of a charitable contribution to fuel our efforts to assist minorities to become owner-operators of broadcast properties.

Having long dreamed of becoming a station owner myself, I did recognize through HSN a very real opportunity for me to, at long last, acquire stations. Putting together my own company, Blackstar, I persuaded HSN to be my non-voting partner to enable my company to acquire the three television stations in Melbourne, Ann Arbor and Salem. With HSN's support and with an affiliation agreement for each of my three stations, I was able to access the capital market to finance the acquisitions. The result has been the formation of one of the largest minority-controlled group owners in the country.

Please let me emphasize that the Blackstar stations take their public service obligations very seriously. Although I freely admit that a substantial amount of Blackstar's programming is oriented to home-shopping, Blackstar does broadcast religious and children's programming. Furthermore, the stations devote 2½ hours each day to public-affairs programming which is interspersed by the stations with their shopping programming. Their public-affairs programming is primarily locally produced and covers such important community issues as alcohol/drug abuse, domestic violence, teen pregnancies, adoption, foster care, health care for the elderly, and family counselling and crises support services within the communities they serve. As a result of this programming, the stations have received numerous awards and expressions of appreciation from community organizations, such as, to mention a few which have commended WBSF-TV, Blackstar's Melbourne station, the Florida Poison Information

Center, Foster Parent Association of Brevard County, Brevard Symphony Orchestra, Holmes Regional Medical Center, Inc., Sea Pines Rehabilitation Hospital, and the Office of the Governor of the State of Florida. This is a record of which I and the other members of the Blackstar organization take particular pride. Our record for public service, in my opinion, matches or is stronger than many of the stations showing traditional commercial programming, and I make this statement without taking into consideration the violence-laden or sex-laden content of some of the programming shown commercially on other stations.

Although at this point Blackstar represents a success story of which I am proud both as a broadcaster and a businessman, it has been by no means easy. First, I had to organize the company, to sell a bank on providing financing, and to acquire the stations, a laborious process to say the least. Second and equally important to the long-term future of the company has been to work within the communities of each of the stations to attempt to ensure that the local cable companies carried Blackstar's programming. As cable approaches 70% penetration, local stations are simply unable to compete effectively with cable-delivered programming if they are not carried on cable in their markets. Absence of this carriage makes it difficult if not impossible to attract financing and to attract or maintain TV audiences which are the life blood of any station. The officers of my company have had to persuade and beg, and on occasion to agitate, to obtain or maintain cable carriage. The record of public service by Blackstar's stations to their communities, plus, in the past, the cable companies' uncertainty about the future of "must-carry" generally has enabled Blackstar to obtain or maintain its cable carriage.

I do find it somewhat baffling that in this age of the increase in the number of channels carried on many cable systems to more than 50 and sometimes to over 100, and with the approach of spectrum compression which may increase significantly the

number of channels which may be carried by cable, Congress is considering excluding one type of programming when the primary beneficiary of that exclusion will not be television viewers nor consumers but only the non-broadcast shopping services which are substantially owned by cable companies.

The harm to Blackstar from what, in essence, is an economic decision, will, however, be irrevocable. The commercial value of Blackstar's programming will be substantially decreased, which will in time effect its revenues. If Blackstar were to determine to sell its stations, the number of potential buyers for the stations would likewise dwindle because the interest of buyers in a station which does not have cable carriage is not great. Any buyer of the Blackstar stations who would want to obtain cable carriage would be forced to change the type of programming and then to rebuild the TV audience and the commercial advertising base relating to that programming prior to having an economically viable enterprise. If the number of independent television stations which have gone dark is any testimony, this is a formidable task.

In summary, in Blackstar's view, because cable carriage is crucial to the economic viability of any station, whatever the type of programming, it will be economically damaging and possibly catastrophic to Blackstar if the Breaux amendment is adopted. Furthermore, because Blackstar's stations do attentively serve the public interest in the communities of which Blackstar is a member, as much if not more than the other commercial stations in their markets, cable viewers would lose the station's public affairs broadcasting and their meaningful contributions to their communities.



**BEFORE THE
COMMERCE, SCIENCE AND TRANSPORTATION
SUBCOMMITTEE ON COMMUNICATIONS
UNITED STATES SENATE
JUNE 20, 1991**

**STATEMENT OF
STEVEN C. ROBERTS
PRESIDENT AND GENERAL MANAGER
ROBERTS BROADCASTING COMPANY
WHSL TV-46
EAST ST. LOUIS, ILLINOIS**

Mr. Chairman and Members of the Subcommittee:

I am Steven C. Roberts, President and General Manager of WHSL TV-46 licensed to East St. Louis, Illinois serving the St. Louis region. Roberts Broadcasting Company is a wholly Black owned company. I am here to enlist your support for minority broadcasters who have struggled long and hard in search of the American dream. The dream of being the owner of a broadcast facility in our country. For this country to fairly represent all segments, minority broadcasters must be allowed to compete and thrive in the broadcast business on an equal footing with all others. The proposed Breaux amendment to S. 12, the Senate cable bill, is a serious threat to the

survival of Black-owned television stations and to the activation of new Black-owned stations. The threat stems from the fact that the amendment would exclude HSN affiliated stations from must carry and that six of the 21 Black-owned TV stations are HSN affiliates.

The FCC, courts and Congress have all recognized that minority ownership in and of itself is the best way to promote programming that addresses the particular needs of minority audiences. As the U.S. Supreme Court said last year in Metro Broadcasting, Inc. v. FCC, "minority owned stations tend to devote more time to topics of minority interest and to avoid racial and ethnic stereotypes in television." I agree, therefore, with the position taken by the U.S. Senate in its Metro amicus brief that ownership promotion is the best way to stimulate minority-oriented programming because "first amendment considerations precluded Congress from dictating the content of the programs of [broadcast] licensees." These same first amendment considerations preclude Congress from adopting the Breaux amendment approach of excluding TV stations from must carry solely on the basis of their programming.

Roberts Broadcasting Company applied to the FCC for a construction permit to build Channel 46 in 1981. Other applicants also filed and after six years and an expensive comparative hearing, we were finally awarded the permit in 1987. After our victory, however, we began what became the more difficult process of securing construction financing. We found that banks were primarily interested in three considerations: (1) the capability of station management; (2) the station's proposed programming; and (3) local cable penetration and guarantees that the station would be

carried by local cable operators. Our business plan demonstrated strong abilities in management and programming. But cable carriage was so unpredictable that bank after bank refused to extend us financing. This was a very frustrating experience for minorities seeking to enter broadcasting for the first time. The rules of the game changed between 1981 (when we applied and all local stations were required to be carried on their cable systems) and 1987 (when cable had become the dominant TV distribution medium and must carry was no longer required). I would add that our experience was not unique. Rather, it all too often paralleled the experiences of other new minority owners.

In the face of this financing/cable dilemma, we were ready to surrender our construction permit. However, we were fortunate to meet Home Shopping Network, Inc. HSN recognized the potential of the St. Louis market and supported its confidence in our abilities by providing construction financing and a long term network affiliation agreement. WHSL signed on the air in September 1989, the first new St. Louis commercial TV station in 20 years. WHSL has created new jobs and new opportunities for the minority community in St. Louis. It provides the 2.5 million viewers in our service area with nearly three hours of local issue oriented non-entertainment programming, children's programming and public service announcement each day plus an additional four hours on Sunday. Much of this programming addresses the needs of the Black community of St. Louis.

This is more public affairs programming than other commercial TV stations in the market. Two full time staff members are engaged in ascertaining prevailing community issues and producing responsive public affairs programs. We are making every effort to be a responsible and responsive FCC licensee; to bring a diversity of views and opinions to all viewers in our service area. WHSL, therefore, validates the FCC, courts and Congressional determination that minority ownership promotes minority oriented programming.

All of this effort and service is jeopardized by the Breaux amendment which would deny HSN affiliated stations must carry eligibility regardless of their non-entertainment programming only because of their affiliation with HSN. The amendment totally ignores the amount and quality of WHSL's non-entertainment programming. Whether intended or not, the impact of the amendment will fall particularly hard on Black TV station owners, one third of whom received their financing from HSN and are affiliated with that network. Only 21 of the more 1100 U.S. commercial TV stations are owned by Blacks. Six of those, including WHSL, have affiliated with HSN and secured construction financing from HSN only after traditional lenders refused to provide funding unless we could provide proof of guaranteed cable carriage. By excluding only HSN affiliates from all other local TV stations eligible for must carry, at a time when cable has become the video conduit into the house, the Breaux amendment unfairly consigns those stations to failure.

WHSL already faces cable carriage problems without the Breaux amendment. In spite of our strong signal and schedule of public service programming, WHSL has yet to break down the barriers created by cable operators in our area. In 1990, there were 1,056,400 TV households within a 35 mile radius of St. Louis, 359,196 of which were cabled. However, WHSL was only available to 93,690 or 26% of these households. And the problem will only intensify as cable penetration in the market continues to climb. The fact is that if you are not on cable you are not on the same level playing field as your competitors. Imagine the barrier WHSL will face if the Breaux amendment is adopted and we are the only local station denied the opportunity to be eligible for cable carriage.

Must carry is important for all local TV broadcasters, but it is particularly important for local broadcasters who happen to be minorities. FCC policies promoting an increase in the number of local TV stations owned by minorities has resulted in an increase in the number of such stations from 17 in 1982 to 46 in 1990. This is significant progress but merely represents 2.5% of all TV stations. Further, a 1990 study showed that the 46 minority TV stations then on the air had a total household coverage within a 35 mile radius of 25,213,820 with total cable penetration of 54% or 13,500,465 homes. Of these homes, 9,749,514 had access to these stations while 38% of 3,750,951 cable subscribers were denied access to these stations, and, as a result, are deprived of the stations' locally produced programming. If the owners of these 46 stations are to have a chance to succeed and if the minorities who hold 21 or 10% of the approximately 210 outstanding TV construction permits are to have a chance to secure financing to

build their stations and eventually access the TV homes in their ADI, must carry without the Breaux amendment must be adopted.

Therefore, Roberts Broadcasting Company's experience leads us to encourage Congress to adopt the must carry provisions of S. 12 previously reported by the Senate Committee on Commerce, Science and Transportation and to reject the Breaux amendment.

Thank you.



JOSEPH A. STROUD
PRESIDENT

Mr. Chairman and members of the Subcommittee, my name is Joseph Stroud. I am president and controlling shareholder of Jovon Broadcasting Corporation, owner of Television Station WJYS-TV , Hammond, Indiana which serves the Chicago market. I am an African-American and I am submitting this statement in opposition to the proposed amendment to S.12 that would remove "must carry" eligibility for television stations affiliated with the Home Shopping Network, Inc. My station began operation on March 3, 1991 because of the financial support of HSN and we are affiliated with HSN and broadcasting the HSN Spree programming. I want to relate my experiences in becoming the owner of a major market television station and of the invaluable assistance rendered by HSN.

In 1981, I read an article in Black Enterprise magazine that the Federal Communication Commission (FCC) had adopted rules that would give greater opportunities to minorities to participate in the broadcast industry. Listed in the article was a Washington, D.C. phone number of a minority office at the FCC. I called and was told about a conference on minority opportunities in telecommunications. I attended. I also attended a National Association of Broadcasters (NAB) meeting that same year and met



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broadcasters who gave me limited direction on how to acquire, to build and to operate a television station. I consulted an FCC attorney who upon review of my financial worth informed me that I would not meet the FCC's financial requirements for a television station.

I was unable to obtain a transmitter site for a Salinas, California construction permit and to complete an FCC application. I decided to forget about owning a television station.

Some time later, I read in the Wall Street Journal's classified section an advertisement from a broadcast consultant who offered his services to minorities interested in obtaining a license for a television station. I paid the

consultant \$47,000 to obtain a license for a television station.

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The comparative licensing procedure began in October 1981 and the license was granted in October 1986. During this period of time, FCC requirements changed. For example, the FCC disallowed the STV financial commitment letter, and I had to qualify financially all over again.

Interrogatives, dispositions, motions of discovery, FCC appearances, transmitter site leases, and the coordination of FCC attorneys, engineers, equipment manufacturers, and consultants required my attention on a daily basis for the entire comparative hearing process. The hearing dominated my thoughts. I was unable to pursue any other business interest on a long term basis. My total commitment was to obtain the FCC license.

I financed the FCC undertaking from the earnings of a restaurant and from the sale of personal assets. The comparative hearing process depleted my assets almost entirely. The purchase of a family home was put off until the hearing was settled, as well as many other personal considerations.

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After the construction permit was granted, I spent just as much money and time to get the station built. Over a period of six years I talked to Syncom, E.F. Hutton, Smith & Barney, Wells Fargo, Le Blanc and Royal and Concord Commercial Bank, as well as other financial entities and leasing companies to raise funds to build the station. I spent money to explore the possibility of forming a limited partnership.

I talked to Telemundo and Univision about financing the station. Numerous individuals and consultants were contacted to provide funds to build WJYS. The lenders, consultants and joint venture capitalist made many demands on my time for what they called due diligence. I was promised funds; however, no company ever loaned money to build the station.

Since the construction permit is for the 3rd largest television market, Chicago, there were bonafide buyers to purchase the construction permit shortly after the FCC

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granted the permit. However, the only company that ultimately financed the station and allowed me to retain control was the Home Shopping Network. WJYS-TV would not be on the air today with permanent control, for there are no contractual puts or calls contained in the loan agreement, if Home Shopping Network had not financed and programmed the station.

Jovon's long held determination to control the station is important to African-Americans in Chicago from an employment point of view. Many African-Americans have degrees in broadcasting, but can find absolutely no broadcast station which will employ them. African-Americans at WJYS have expressed their problems in obtaining employment in the broadcast industry. Fortunately now they have an opportunity to participate at all levels of management and at every skill at this full powered broadcast facility. The station's programming appropriately represents the ethnic community as well.

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WJYS airs more public service announcements than other commercial television stations in the market with the exception of WEHS, yet the station is still not allowed on

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I will never forget that Home Shopping Network enabled a minority to significantly participate in the broadcast industry, when absolutely no one else would.

URBAN BROADCASTING CORPORATION
Post Office Box 678
Ben Franklin Station
Washington, D.C. 20044

Theodore M. White
President

(202) 659-0709

STATEMENT OF THEODORE M. WHITE

Mr. Chairman and members of the Subcommittee, my name is Theodore M. White and I am president and controlling shareholder of Urban Broadcasting Corporation based here in Washington, D.C. market. I am submitting this statement in opposition to the proposed amendment to S. 12 that would remove "must carry" eligibility for television stations affiliated with the Home Shopping Network, Inc.

As you may know, my company, Urban Broadcasting Corporation, is the holder of a construction permit to build a television station using Channel 14 in the Washington, D.C. market. It has been a long and difficult process to obtain this construction permit and finally to be in a position to finance and construct the television station. The affiliation agreement and financial commitment from Home Shopping Network, Inc., has enabled us to be finally in a position to construct and operate on Channel 14.

When we started the application process for Channel 14 approximately 17 years ago, must carry on cable was not an issue. Television stations almost automatically were picked up by cable operators within the viewing area of the station.

At the present time, lack of access to cable pick-up is having a profound impact on the ability of a new station to be constructed and operated.